

APR 21 2005

PTO/SB/26 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCEUnder the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENTDocket Number (Optional)
1001.1351113

In re Application of: John M.K. Daniel et al.

Application No.: 10/650,303

Filed: August 28, 2003

For: DISTAL PROTECTION DEVICE AND METHOD

The owner, SCIMED LIFE SYSTEMS, INC., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 8,683,652 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;
is held unenforceable;
is found invalid by a court of competent jurisdiction;
is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
has all claims canceled by a reexamination certificate;
is reissued; or
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 38,928

Signature

Apr 21, 2005

Date

04/29/2005 T UTT2 00000001 500413 10650303

02 FC:1814

130.00 DA

Glenn M. Seager

Typed or printed name

812-677-9050

Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/98 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED
CENTRAL FAX CENTER
APR 21 2005

CROMPTON | SEAGER | TUFTE | LLC
Patent, Trademark & Copyright Attorneys

1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Phone 612.677.9050
Fax 612.359.9349

Fax Transmission

TO: Commissioner for Patents
Attn: Examiner Nguyen, Vi X
P.O. Box 1450
Alexandria, VA 22313-1450

DATE: April 21, 2005
FROM: Glenn M. Seager
OUR REF: 1001.1351113
TELEPHONE: 612.359.9312

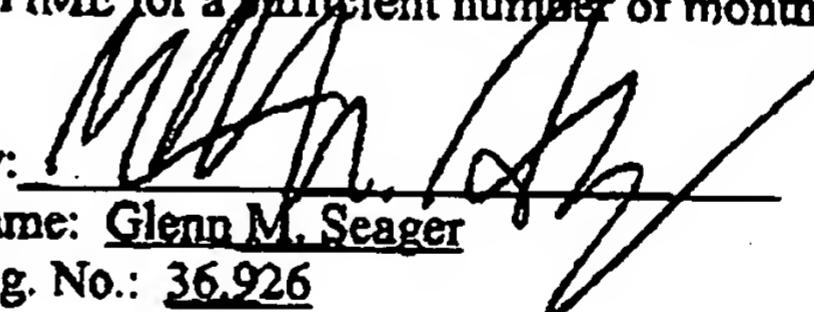
Total pages, including cover letter: 9

PTO FAX NUMBER 703-872-9306

If you do NOT receive all of the pages, please telephone us at 612.677.9050, or fax us at 612.359.9349.

Title of Document Transmitted: Amendment
Applicant: John M.K. Daniel et al.
Serial No.: 10/650,303
Filed: August 28, 2003
Group Art Unit: 3731
Our Ref. No.: 1001.1351113
Confirmation No. 6924
Customer No. 28075

Please charge Deposit Account No. 50-0413 in the amount of \$ 450.00 for Extension of Time.
Please charge any additional fees or credit overpayment to Deposit Account No. 50-0413. Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate.

By: 
Name: Glenn M. Seager
Reg. No.: 36,926

04/29/2005 TTUTTP 00000001 500413 10650303

01 FC:1253 I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.

Name: JoAnn Lindman


Signature

4-21-05
Date